IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODPUR

ORDER

S.B. Criminal Misc. Petition No.1384/2007

Shailendra Kumar alias Shailesh Bhai alias Shailesh

Vs.

State & Anr.

Date of Order : 25th September , 2007

HON'BLE MR. H.R. PANWAR, J.

Mr. Vijay Purohit for petitioner.
Mr. Ashok Upadhyay, P.P.

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner seeks to quash FIR No.257/2002 of Police Station Kotwali, Jalore for the offences under Sections 420 and 379 IPC.

The petitioner earlier filed petition being S.B. Criminal Misc. Petition 861/2003 for quashing of the same FIR. The said petition came to be dismissed by me vide order 17.07.2007, on the statement of the learned Public Prosecutor that police after investigation has submitted negative final report. Learned Public Prosecutor received communication dated

6.11.2006 from Police Station, Jalore, on the strength of which he made the said statement and on this premises, counsel for the petitioner submitted that if police takes the matter for further investigation, then, the petitioner may be permitted to file a fresh petition. While dismissing the said petition as having become infructuous, it was made clear that if the police takes the matter for further investigation, it would be open for the petitioner to file a fresh petition. Hence, this fresh petition.

Learned counsel for the petitioner submits that by order dated 09.08.2007, the Superintendent of Police, Jalore has directed the SHO, Police Station Kotwali, District Jalore to further investigate the matter and thereafter the matter is yet to be investigated.

At this stage, the prosecution is unable to show as to whether any offence is made out against the present petitioner in connection with FIR No.257 dated 4th August, 2002. More than 5 years have been elapsed and the police has not yet been able to come to conclusion that prima facie offence is made out. Further, after order of re-investigation dated 09.08.2007, the police has not carried out investigation in the matter.

In the circumstances, therefore, while disposing of the misc. petition, it is directed that if the police after re-investigation come to the conclusion that a case is made out against the present petitioner and his arrest is necessary, before his arrest, a notice of 15 days be served on him to take appropriate remedy in the matter.

(H.R. PANWAR), J.

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